

REMARKS

This document is filed in reply to the office action dated May 17, 2005 ("Office Action"). Applicants have amended claims 1, 36, and 40-43 to remove alleged new matter, cover particular embodiments, and promote clarity. The amendments has necessitated cancellation of claims 2, 3, 5, 6, 8-14, and 37-39 and dependency changes to claims 4, 7, and 40-43. Support for amendments to claim 1 can be found in original claims 4 and 7. Support for amendments to claims 36 appears in, e.g., original claim 30. No new matter has been added.

Claims 1, 4, 7, 15, 23-25, 36, and 40-43 are pending. Claims 27-35 have been withdrawn from further consideration for covering a non-elected invention. Upon entry of the proposed amendments, claims 1, 4, 7, 15, 23-26, 36, and 40-43 will be under examination. Reconsideration of this application is requested in view of the following remarks.

Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 1-14 and 36-43 on two grounds.

First, the Examiner rejected claims 1-14 and 36-43 for containing new matter. See the Office Action, page 3, lines 1-6. Applicants have amended independent claims 1 and 36 to remove the alleged new matter and cancelled claims 37-39. Second, the Examiner rejected claims 8-14 and 36-38 for lack of written description. See the Office Action, page 3, lines 16-20. Applicants have amended claim 36 and cancellation of the other rejected claims.

It is submitted that the rejections have been overcome or rendered moot.

Rejections under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 1-14 and 36-43 on two grounds.

First, the Examiner rejected claims 1-14 and 36-43 for being indefinite. See the Office Action, page 8, lines 10-13. Second, the Examiner rejected claims 37-43 for lack of sufficient antecedent basis for the preamble. See the Office Action, page 9, lines 13-15.

Applicants have (i) amended claims 1, 36, and 40-43, and (ii) cancelled claims 2, 3, 5, 6, 8-14, and 37-39. In view of the amendments and cancellation, Applicants request that the rejections be withdrawn.

Rejections under 35 U.S.C. §§ 102 (b) and 103(a)

The Examiner rejected (i) claims 8-14 as being anticipated by GenBank Accession No. Z70523 and (ii) claims 1-3, 5, 6, 8-14, and 36-39 as being obvious over GenBank Accession No. AE005490, GenBank Accession No. AE000346, GenBank Accession No. Z70523, and GenBank Accession No. D90887, in view of U.S. Patent NO. 5,693,769 to Hogan, U.S. Patent No. 5,374,718 to Hammond et al., and Tijhie et al., J. Micobiol. Meth. Vol. 18, pp 137-150, 1993, and further in view of Buck et al. Biotechniques, 1999, 27(3): 528-536. See the Office Action, page 10, lines 7-13. On the other hand, she pointed out that claims 4, 7, and 40-43 are prior art-free. See the Office Action, page 18, lines 1-3. Applicants have (i) recited in independent claim 1 the limitations recited in claims 4 and 7; (ii) recited in independent claim 36 the limitations recited in claims 40-43; and (iii) cancelled the other rejected claims. It is requested that the rejections be withdrawn.

CONCLUSION

In view of the above amendments and remarks, Applicants submit that the grounds for the rejections asserted by the Examiner have been overcome or rendered moot, and that claims, as pending, define subject matter that is sufficiently described, definite, novel, and non-obvious. On this basis, it is submitted that allowance of this application is proper, and early favorable action is solicited. Please apply any charges to deposit account 06-1050, referencing attorney docket 12674-005001.

Respectfully submitted,

Date: _____

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